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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re M.S., Jr., a Person Coming Under
the Juvenile Court Law.

B210098 **considered w/B211444**
x-ref. B205375

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

(L.A.S.C. No. CK 61213)

Plaintiff and Respondent,

v.

M.S., SR.,

Defendant and Appellant;

D.S. et al.,

Appellants.

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the Juvenile Court Law.

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LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

(L.A.S.C. No. CK 61213)

Plaintiff and Respondent,

v.

M.S., SR.,

Defendant and Appellant;

D.S. et al.,

Appellants.

APPEALS from orders of the Superior Court of Los Angeles County.
 Randolph M. Hammock, Juvenile Court Referee. Affirmed (B210098; B211444).

M.S., Sr., in pro. per.; and Maureen L. Keaney, under appointment by the Court of Appeal, for Defendant and Appellant (B210098).

M.S., Sr., in pro. per., for Defendant and Appellant (B211444).

D.S., in pro. per. for Appellant D.S. (B210098; B211444).

S.S., in pro. per., for Appellant S.S. (B210098; B211444).

Amir Pichvai for Plaintiff and Respondent (B210098; B211444).

These are appeals by M.S., Sr., his father (D.S.) and his mother (S.S.). Although the appeals are ostensibly from the juvenile court's July 17 and October 15, 2008 orders they address a multitude of issues, some of which we have decided in previous appeals, some of which were never raised in the trial court and are therefore forfeited on appeal and some of which are complaints over which we have no jurisdiction.

FACTS AND PROCEEDINGS BELOW

The background facts of this case are discussed in two of our previous opinions, *M[.]S. v. Superior Court* (Jan 24, 2008, B202928 [nonpub. opn.] and *In re M.S., Jr.* (Nov. 24, 2008) B205375) [nonpub. opn.] In our most recent opinion we affirmed the juvenile court's order placing M.S., Sr.'s child in the care and custody of the child's mother, B.H. and remanded the cause to the court. While that appeal was pending the court held a progress hearing in July 2008 at which time it withdrew the requirement that the DCFS make unannounced home visits to B.H.'s home, expanded M.S., Sr.'s visits to unmonitored day visits and an overnight visit every weekend, and cancelled the requirement that M.S., Sr. and B.H. continue attending parenting classes. The court,

however, continued the requirement that M.S., Sr. attend individual counseling and joint counseling with B.H., noting that attendance at those counseling sessions is “inevitably the road to getting the court potentially to terminate jurisdiction.” The court set another review hearing for October 2008. M.S., Sr. filed a timely appeal. At the October 2008 hearing the court extended M.S., Sr.’s weekend visits from Friday evening through Sunday and set a further review hearing for December 2008. The court also denied a “motion for damages” filed by M.S., Sr. and his parents. M.S., Sr. and his parents filed timely pro se appeals from the order denying the motion for damages.

DISCUSSION

I. CASE NO. B210098 [JULY 17, 2008 ORDERS]

A. Preliminary Matters

1. Requests for augmentation of the record and judicial notice

M.S., Sr.’s motion to augment the record is denied. Exhibits I through III are not relevant to any issue before us. There is no showing that exhibit IV, a purported letter from M.S., Sr.’s appointed counsel to the attorney for the DCFS, was offered into evidence and therefore it cannot be considered on appeal. Furthermore, the contents of the letter are irrelevant because the subject of counsel’s complaint, failure to strike references to M.S., Sr. abusing his son, has since been resolved. (See discussion at page 4, below.)

DCFS’s request for judicial notice is also denied. We do not need to issue an order allowing us to consider our own opinions.

2. *Sade C. brief*

Appointed counsel for M.S., Sr. submitted a letter to this court stating that she was unable to find any arguable issues. (*In re Sade C.* (1996) 13 Cal.4th 952.) We advised M.S., Sr. that he had the right to personally submit any contentions or arguments he wished us to consider. M.S., Sr., appearing pro se, filed a “joint opening brief” with his parents, D.S. and S.S. who also appear pro se. We granted M.S., Sr.’s request that his court appointed counsel be relieved and that he represent himself.

B. Order Continuing M.S., Sr.'s Individual And Joint Counseling

At the July 17 progress hearing the DCFS informed the court that M.S., Sr. and B.H. were participating in individual and joint counseling and were doing well and showing growth. Upon consideration of the DCFS report the court ordered M.S., Sr. and B.H. to continue their individual and joint counseling “because that’s inevitably the road to getting the court potentially to terminate jurisdiction.”

M.S., Sr. objects to the order requiring him to continue in individual and joint counseling as “punitive,” “disingenuous,” and “a demonstration of bias.” He did not object to the order in the trial court so the issue is forfeited on appeal. (*In re A.E.* (2008) 168 Cal.App.4th 1, 4.) In any event, counseling orders are well within the court’s discretion, (*ibid.*) and we see nothing punitive in the order at issue. Under the circumstances, the court reasonably concluded that it would benefit the child for the parents, who were children themselves when they conceived their child, to participate in individual and joint counseling.

C. Order Striking References to M.S., Sr. As A Child Abuser

M.S., Sr. contends the court failed to obey our earlier directive “to delete by strikeouts all statements [in the petition] that [M.S., Sr.] was the abuser.” At the July 2008 progress hearing the court and counsel for the parties acknowledged that this had not been done. The court ordered that it be done and that a report showing when it was done and “what was done exactly” be submitted at the next progress hearing in October 2008. At that hearing the court found that all references to M.S., Sr. being a perpetrator of child abuse had been redacted not only from the petition but from all files in this case.

II. CASE NO. B211444 [OCTOBER 15, 2008 ORDERS]

A. Preliminary Matters

M.S., Sr.’s objection to the DCFS’s purportedly late-filed brief is rejected. On March 9, 2009, we notified the DCFS that if it did not file its respondent’s brief within 30 days of our notice, or show good cause for relief from default, the appeal would be

submitted for decision on the record and appellant's opening brief. The DCFS filed its respondent's brief on April 8, 2009, 30 days from the date of our notice.

M.S., Sr.'s motion for reconsideration of our order denying his request for judicial notice of the clerk's transcript in this appeal is denied. The transcript is part of the record on appeal and we do not need to issue an order allowing us to consider it.

B. The Motion For Damages

In connection with the October 15, 2008 progress report, M.S., Sr., and his parents, D.S. and S.S. filed a "motion for damages" against the County of Los Angeles seeking \$15 million for the child, M.S., Jr., lesser amounts for other family members and \$200,000 in "expert witness fees and report preparation." The court correctly denied the motion. D.S. and S.S. lacked standing to make the motion and, to the extent M.S., Sr. had standing to make a motion for expert witness fees, we agree with the court that the motion was not then, nor is it now, supported by any legal authority.

DISPOSITION

The orders of July 17, 2008, and October 15, 2008, are affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

MILLER, J.*

* Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.